

E-132, 299/SA-88-996 ORDER ESTABLISHING EXPEDITED BRIEFING  
SCHEDULE

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Don Storm  
Tom Burton  
Cynthia A. Kitlinski  
Dee Knaak  
Norma McKanna

Chair  
Commissioner  
Commissioner  
Commissioner  
Commissioner

In the Matter of the Application  
of the City of Rochester to  
Adjust its Service Area Boundary  
with People's Cooperative Power  
Association, Inc.

ISSUE DATE: September 24, 1992

DOCKET NO. E-132, 299/SA-88-996

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**PROCEDURAL HISTORY**

On August 7, 1992 the Commission issued its ORDER DETERMINING MOTION FOR PARTIAL SUMMARY DISPOSITION in the above-entitled case. The motion had been certified to the Commission by Administrative Law Judge Phyllis Reha, who was conducting contested case proceedings in the matter. The August 7 Order found that no compensation was due People's Cooperative Power Association for the City of Rochester's acquisition of those portions of People's' service area annexed before April 24, 1984 on which there were no People's' customers or facilities on the date of annexation.

On August 25, 1992 the City filed a Petition for Rehearing, Reconsideration, and Modification of the August 7 Order. On August 28 People's filed a Petition for Rehearing, Amendment, and Reargument. Under Minn. Stat. § 216B.27, subd. 4 (1990), any application for rehearing not granted within 20 days of filing is deemed denied. On September 11, 1992 the Commission issued an Order granting both petitions for purposes of tolling the 20-day time period and allowing time for careful review.

On September 15, 1992 Judge Reha, the parties, and a Commission staff member held a telephone conference to schedule further proceedings in the ongoing contested case. They discovered that the parties were unable to stipulate on which areas were affected by the Commission's Order due to disagreement over the status of areas bordered by People's' feeder lines on the date of annexation. They also discovered that the issue had not been addressed in any of the filings made with the Commission. Since contested case proceedings could not progress efficiently until the issue had been resolved, the parties agreed it would be best to brief the issue to the Commission on an expedited basis.

The Commission took up the matter on its own motion on September 24, 1992.

### FINDINGS AND CONCLUSIONS

The Commission agrees with the parties and the Administrative Law Judge that the feeder line issue should be briefed and resolved as soon as possible. The parties have agreed to an expedited schedule under which initial briefs would be due by October 1, reply briefs would be due by October 12, and oral argument would be held as soon thereafter as possible. The Administrative Law Judge approved the parties' proposal. The Commission will adopt it.

### ORDER

1. Initial briefs on the status of areas bordered by a People's' feeder line on the date of annexation shall be filed with the Commission and served on all parties by October 1, 1992. Those briefs shall address the following issues:
  - a. Is an annexed area a "bare ground" area within the meaning of the Commission's August 7 Order if facilities such as feeder lines are found alongside or on the border of the area?
  - b. What constitutes being alongside or on the border of an area?
2. Reply briefs on the same issue shall be filed and served by October 12, 1992.
3. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Richard R. Lancaster  
Executive Secretary

(S E A L)